



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 5256-99  
19 June 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 17 December 1976 for six years as ABF3 (E-4). At the time of your reenlistment, you had completed nearly five years of prior active service. The record reflects that you served without incident until 1 August 1978, when you were in unauthorized absence (UA) status for a period of two and half hours. There is no disciplinary action shown in your record for this period UA, but you were counseled that continuation of such behavior could result in an administrative discharge.

You served without further incident until 7 February 1979 when you received nonjudicial punishment (NJP) for possession of marijuana and introducing alcohol beverages aboard ship. However, you were advanced to ABF2 (E-5) on 16 June 1979.

The record further reflects that on 15 November 1982 you extended your enlistment for an additional period of 42 months to accept orders and continued to serve without incident until 23 December

1983, when you received NJP for a 32 day period of unauthorized absence (UA). You went UA again from 3 January to 3 February and 2 March to 4 June 1984.

On 26 June 1984 you were convicted by special court-martial of the foregoing two periods of UA totalling about 126 days. You were sentenced to confinement at hard labor for three months, forfeitures of \$300 per month for four months, and reduction in rank to SN (E-3).

On 24 July 1984 you were notified that you were being considered for discharge under other than honorable conditions by reason of misconduct due to a pattern of misconduct, commission of a serious offense, and drug abuse. You were advised of your procedural rights, declined to consult with counsel, and waived your right to present your case to an administrative discharge board (ADB).

A substance abuse report on 3 August 1984 noted that a command assistance and counseling evaluation indicated that you were dependent and not amenable for treatment. The report further noted you had completed alcohol rehabilitation treatment in 1976 but were currently abusing alcohol.

On 4 August 1984 you received a third NJP for sleeping on watch. Thereafter the commanding officer recommended that you be discharged under other than honorable conditions by reason of misconduct due to a pattern of misconduct. Commander, Naval Military Personnel Command approved the recommendation and directed discharge under other than honorable conditions. The record reflects that you declined in-patient treatment for drug/alcohol rehabilitation via a Veterans Administrative facility prior to discharge. You were discharged under other than honorable conditions on 11 September 1984.

The Naval Discharge Review Board (NDRB) denied your request for an upgrade of your discharge on 13 November 1985.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your two prior periods of honorable service and the fact that it has been more than 16 years since you were discharged. The Board noted the issues you presented to the NDRB in 1985 and your contention to the effect that you should have received a general discharge given your previous good service. The Board concluded that the foregoing factors and contention were insufficient to warrant recharacterization of your discharge given your record of three NJPs and conviction by special court-martial for two periods of UA totalling more than four months. The Board noted the aggravating factor that you waived your right to an ADB, the one opportunity you had to show why you should be retained or discharged under

honorable conditions. You have provided neither probative evidence nor a persuasive argument in support of your application. The Board concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director